

**REMARKS**

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

**I. CLAIM STATUS AND AMENDMENTS**

Claims 46-49 and 58-69 were pending in this application when last examined.

Claims 46-49 and 58-69 were examined on the merits and stand rejected.

Claims 47, 49, 58 and 62-69 are cancelled without prejudice or disclaimer thereto.

Applicants reserve the right to file a continuation or divisional application to any cancelled subject matter.

Claim 46 is amended to delete the term "water" and to indicate that the claimed antibody is a monoclonal antibody produced by hybridoma FERM BP-10157. Support for this amendment can be found on page 37, lines 22-28, of the specification as filed. Please note that, as indicated in the FERM depository receipt attached to our reply of April 11, 2007, FERM P-19298 is the provisional deposit number that correlates to deposit number FERM BP-10157. Please further note that claim 46 incorporates the limitations of now cancelled claim 58.

Claim 48 is amended to recite the limitations of now cancelled claim 49.

Claim 59 is amended to delete the phrase "having a label". Therefore, Applicants respectfully suggest that the term "second antibody", which was contended to be new matter in the last Office Action, is supported by page 41, lines 16-35, of the specification as filed. In particular, a person of skill in the art would understand that lines 16-18 and lines 31-35 on page 41 of the specification disclose a second antibody that binds to SEQ ID NO: 1. In particular, a person of skill in the art would understand that "another antibody" on page 41, line 31, of the specification supports the term "second antibody" in claim 59.

Claims 60 and 61 are amended to conform with the amendments to claim 46.

No new matter has been added.

## **II. NEW MATTER REJECTION**

In item 11 on pages 3-5 of the Office Action, claims 46-49, 58-61, 64, 65, 68 and 69 were rejected under 35 USC 112, first paragraph, as containing new matter.

This new matter rejection was discussed in a telephonic interview between Applicants' representatives and the Examiner and her supervisor on August 27, 2007. Applicants sincerely thank the Examiner and her supervisor for their suggestions and comments.

In particular, Applicants' representatives noted during this interview that the limitation "second antibody" is supported by page 41, lines 16-35, of the specification for the reasons given in Section I of this reply. Applicants further note that this limitation is amended to remove the phrase "having a label", as suggested by the Examiner, in order to clarify this limitation. Therefore Applicants respectfully suggest that this limitation, as amended, is not new matter.

Also during the interview, Applicants' representatives and the Examiner and her supervisor agreed that "immobilized on a support" is supported by Example 19 on pages 41-42 of the specification. In particular, a person of skill in the art would understand that the assay described in this Example requires antibody to SEQ ID NO: 1 immobilized on a support. Applicants further note that the method of immobilization is described on page 41, lines 31-35, of the specification. Therefore, Applicants respectfully suggest that the limitation "is immobilized on a support" is not new matter.

Finally, during the interview, Applicants' representatives and the Examiner and her supervisor agreed that the phrase "has a label" in claim 61 is supported by Example 19 on pages 41-42 of the specification. In particular, lines 20-25 on page 41 indicate that an anti-MINA53 monoclonal antibody was labeled. Thus, Applicants respectfully submit that the phrase "has a label" is not new matter.

In regard to the term "water" in claim 46, such a term has been deleted in order to clarify the patentable features of the claimed invention.

Thus, in view of the above and in light of the discussions during the interview of August 27, 2007, Applicants respectfully submit that this rejection, as applied to the amended claims, is untenable and should be withdrawn.

### **III. OBVIOUSNESS REJECTION**

In item 14 on pages 6-9 of the Office Action, claims 46, 47 and 59-69 were rejected under 35 USC 103(a) as obvious over Ota et al. (EP 1 074 617 A2) in view of Campbell (Monoclonal Antibody Technology, Ch. 1, pp. 1-32, 1984) and further in view of Wu et al. (U.S. 5,547,928) as evidenced by the Sigma catalog (1998).

Applicants respectfully traverse this rejection, as applied to the amended claims, for the following reasons.

Claim 46 is amended to recite the limitation of non-rejected claim 58, *i.e.* a monoclonal antibody that specifically binds to a peptide of SEQ ID NO: 1 or a portion thereof, wherein the monoclonal antibody is produced by hybridoma FERM BP-10157. Applicants respectfully submit that none of the above noted-references teach or suggest a monoclonal antibody produced by hybridoma FERM BP-10157 and therefore this rejection, as applied to the amended claims, is untenable and should be withdrawn.

Applicants have also amended claim 48 to indicate that the claimed hybridoma is FERM BP-10157 and thus respectfully submit that this claim is not anticipated by, or obvious over, the above noted-references.

For the above-noted reasons, Applicants respectfully suggest that this rejection, as applied to the amended claims, is untenable and should be withdrawn.

### **IV. INTERVIEW**

Applicants again thank the Examiner and her supervisor for holding an interview over the telephone with Applicants' representatives on August 27, 2007.


**CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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